

AMENDED IN SENATE AUGUST 29, 2008

AMENDED IN SENATE JUNE 19, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2537

Introduced by Assembly Member Furutani

February 21, 2008

An act to amend Section 1720.4 of the Labor Code, relating to public works, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2537, as amended, Furutani. Public works: ~~exemption~~ volunteers. Existing law defines “public works,” for purposes of regulating public works contracts, as, among other things, construction, alteration, demolition, installation, or repair work that ~~are~~ *is* performed under contract and paid for in whole or in part out of public funds. Pursuant to existing law, all workers employed on public works shall be paid not less than the general prevailing rate of per diem wages for work, except for public works projects of \$1,000 or less, or except for any work performed, on or after January 1, 2002, and until January 1, 2009, by a volunteer, a volunteer coordinator, or by members of the California Conservation Corps or of certified Community Conservation Corps, *as defined.*

This bill would extend, until January 1, 2012, the ~~exemption~~ *exclusion* from the ~~definition of~~ *application of the law governing* “public ~~works~~” ~~for works,~~ any work performed by a volunteer, a volunteer coordinator, or by members of the California Conservation Corps or of certified Community Conservation Corps, *as defined.*

This bill would require the Director of Industrial Relations to ~~conduct a study, as specified, to evaluate the impact of allowing volunteers to work on public works projects and to submit its findings~~ *submit a written report containing information regarding volunteers on public works projects, as specified, to the Legislature by June 30 January 1, 2011. The costs incurred in the preparation of this report would be funded by moneys in the Environmental License Plate Fund. By authorizing the expenditure of moneys from this fund, the bill would make an appropriation.*

This bill also would state legislative findings and declarations regarding the intent of the bill.

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1720.4 of the Labor Code is amended to
2 read:
3 1720.4. (a) This chapter shall not apply to any of the following
4 work:
5 (1) Any work performed by a volunteer. For purposes of this
6 section, "volunteer" means an individual who performs work for
7 civic, charitable, or humanitarian reasons for a public agency or
8 corporation qualified under Section 501(c)(3) of the Internal
9 Revenue Code as a tax-exempt organization, without promise,
10 expectation, or receipt of any compensation for work performed.
11 (A) An individual shall be considered a volunteer only when
12 his or her services are offered freely and without pressure and
13 coercion, direct or implied, from an employer.
14 (B) An individual may receive reasonable meals, lodging,
15 transportation, and incidental expenses or nominal nonmonetary
16 awards without losing volunteer status if, in the entire context of
17 the situation, those benefits and payments are not a substitute form
18 of compensation for work performed.
19 (C) An individual shall not be considered a volunteer if the
20 person is otherwise employed for compensation at any time (i) in
21 the construction, alteration, demolition, installation, repair, or
22 maintenance work on the same project, or (ii) by a contractor, other
23 than a corporation qualified under Section 501(c)(3) of the Internal
24 Revenue Code as a tax-exempt organization, that is receiving

1 payment to perform construction, alteration, demolition,
2 installation, repair, or maintenance work on the same project.

3 (2) Any work performed by a volunteer coordinator. For
4 purposes of this section, “volunteer coordinator” means an
5 individual paid by a corporation qualified under Section 501(c)(3)
6 of the Internal Revenue Code as a tax-exempt organization, to
7 oversee or supervise volunteers. An individual may be considered
8 a volunteer coordinator even if the individual performs some
9 nonsupervisory work on a project alongside the volunteers, so long
10 as the individual’s primary responsibility on the project is to
11 oversee or supervise the volunteers rather than to perform
12 nonsupervisory work.

13 (3) Any work performed by members of the California
14 Conservation Corps or of Community Conservation Corps certified
15 by the California Conservation Corps pursuant to Section 14507.5
16 of the Public Resources Code.

17 (b) This section shall apply retroactively to otherwise covered
18 work concluded on or after January 1, 2002, to the extent permitted
19 by law.

20 ~~(e) (1) The director shall conduct a study that evaluates the~~
21 ~~impact of Section 1720.4 of the Labor Code, as added by Section~~
22 ~~2 of Chapter 330 of the Statutes of 2004, from and after August~~
23 ~~30, 2004 which shall include, but not be limited to, all of the~~
24 ~~following:~~

25 ~~(A) The number of hours that volunteers have worked on public~~
26 ~~works projects.~~

27 ~~(B) The costs of the public works projects that utilized~~
28 ~~volunteers and the percentage of work performed by volunteers.~~

29 ~~(C) The types of work done by volunteers on public works~~
30 ~~projects.~~

31 ~~(2) The director shall submit the findings of the study described~~
32 ~~in paragraph (1) to the Legislature by June 30, 2011.~~

33 *(c) On or before January 1, 2011, the director shall submit a*
34 *written report to the Legislature that does both of the following:*

35 *(1) Describes the number and the nature of complaints received*
36 *and investigations conducted involving the use of volunteers on*
37 *public works projects subject to this chapter; that are projects as*
38 *described in Section 21190 of the Public Resources Code.*

39 *(2) Provides an estimate of each of the following as they relate*
40 *to public works projects that involve the acquisition, presentation,*

1 *or restoration of natural areas, including parks or ecological*
2 *reserves, or other public works projects that have one or more of*
3 *the purposes, as described in Section 21190 of the Public*
4 *Resources Code:*

5 *(A) The number of hours per year that volunteers work on public*
6 *works projects.*

7 *(B) The cost per year of public works projects, that are projects*
8 *as described in Section 21190 of the Public Resources Code, and*
9 *the percentage of work performed by volunteers.*

10 *(C) The types of work done by volunteers on public works*
11 *projects, that are projects as described in Section 21190 of the*
12 *Public Resources Code.*

13 ~~(d)~~

14 *(d) The sum of one hundred thousand dollars (\$100,000) is*
15 *hereby appropriated from the Environmental License Plate Fund*
16 *for the purposes of funding the report required pursuant to*
17 *subdivision (c).*

18 *(e) This section shall remain in effect only until January 1, 2012,*
19 *and as of that date is repealed, unless a later enacted statute, which*
20 *is enacted before January 1, 2012, deletes or extends that date.*

21 SEC. 2. The Legislature finds and declares all of the following:

22 (a) It is the intent of the Legislature that public works projects
23 should never undermine the wage base in a community.

24 (b) The Legislature finds that the requirement, that workers on
25 public works projects be paid the prevailing rate of per diem wages,
26 ensures that the local wage base is not lowered.

27 (c) It is the intent of the Legislature that this act shall not apply
28 to the work of state and local public sector employees.